

National Treasury Employees Union

**TESTIMONY OF GREGORY M. JOHNSON
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BLAINE, WASHINGTON**

ON

**ASSESSMENT OF RISKS AT THE NORTHERN BORDER
AND THE INFRASTRUCTURE NECESSARY TO ADDRESS
THOSE RISKS**

**BEFORE THE
THE HOUSE HOMELAND SECURITY COMMITTEE**

TUESDAY, AUGUST 8, 2006

Mr. Chairman and members of the House Homeland Security Committee, I would like to thank you for the opportunity to testify before you today on border security issues at the Washington state ports of entry that I represent. My name is Gregory Johnson and I am President of Chapter 164 of the National Treasury Employees Union (NTEU). I have the honor of representing the former U.S. Customs Service personnel in the ports of entry at Blaine, Bellingham, Danville, Friday Harbor, Oroville, Frontier, Laurier, Lynden, Metaline Falls, Oroville, Point Roberts, and Sumas. I also represent the CBP employees stationed in Vancouver, British Columbia. NTEU is the elected representative of 15,000 Customs and Border Protection (CBP) employees at the Department of Homeland Security. I am here today to testify in my capacity as President of NTEU Chapter 164 and not in any official capacity or as a representative of either the Department of Homeland Security or CBP.

I have been employed by the former U.S. Customs service as a Customs inspector since 1983. I have served at the land Port of Blaine since 1986. In 2002, Congress passed the Homeland Security Act that created the Department of Homeland Security (DHS). DHS merged former immigration and customs inspectors, canine enforcement officers and agriculture specialists into the Bureau of Customs and Border Protection (CBP) on March 1, 2003. CBP was given the dual mission of not only safeguarding our nation's borders and ports from terrorist attacks, but also the mission of regulating and facilitating international trade and travel.

My experience goes back twenty years here at Blaine, seventeen years as a U.S. Customs inspector and the last three years as a Customs and Border Protection officer or CBPO. All CBP employees recognize that change is difficult, but the changes at Blaine have proved to be particularly challenging. CBP employees are dedicated to protecting this nation. We serve with pride and singleness of purpose. Stopping terrorism and smugglers—drugs, counterfeit goods, currency and human traffickers-- is our foremost goal, while at the same time moving the vibrant flow of legal trade and travelers across our borders. But, here at Blaine we are discouraged.

The biggest challenge we face is the lack of resources and training to do our jobs effectively. In the past, there were three inspectors in secondary processing for every one inspector in primary processing. Now there is a one to one ratio. Before the merger, an inspector would check documents, query the traveler and send to secondary any vehicles or persons that needed additional vetting by an inspector. At secondary, a thorough document check or vehicle search would take place.

It was years of experience that now-retired U.S. Customs inspector Diana Dean, after brief questioning at primary, sent Ahmed Ressam, the millennium bomber, to secondary where the true purpose of his visit to the U.S. was discovered. Without adequate personnel at secondary, wait times back up and searches are not done to specifications. For example, a full search of one vehicle for counterfeit currency will take two officers on average a minimum of 45 minutes.

Technological advances are important, but without the training and experience, technology alone would have failed to stop the millennium bomber at Port Angeles. Today,

primary processing is increasingly dependent on technology. CBPOs are instructed to clear vehicles within thirty seconds. That is just enough time to run the license through the plate reader and check identifications on a data base. If the documents are in order the vehicle is waved through. The majority of a CBPO's time is spent processing I-94s, documents non-resident aliens need to enter the U.S. At each shift change, it takes 5 minutes to sign on to these computers. During that sign-on time, so that lanes are not backed up at the booths, CBPOs are under extreme pressure to process visitors without technological support – in other words fly blind. We cannot even check against the flawed Terrorist Screening Database because computers are down during shift changes.

According to a DHS Inspector General report (OIG-06-43, June 2006), watch list-generated terrorism inspections at the nation's 317 air, land and sea ports of entry have increased, as border arrests for drug smuggling and fake immigration documents have dropped. CBPOs lack "authority to make timely and informed decisions regarding the admissibility of individuals who they could quickly confirm are not the suspected terrorists. CBPOs now spend so much time doing unnecessary interrogations and other work needed to clear the wrongly detained person that they are spending less time looking for smuggled drugs or fraudulent immigration documents."

CBP has implemented multiple mandatory referral policies, removing all officer discretion and application of talent and training when making a decision to refer. Due to these "random"(computer generated) non-discretionary (based upon country(ies) of origin and/or travel) referrals, CBPOs are being obligated to inspect travelers for no other reason than the policy itself.

These policies have an adverse affect on the American public, who are being ordered for baseless inspections, despite our good judgment to the contrary. They adversely affect our ability to concentrate on intercepting potential violators of American law, while our attention is diverted by these repeated referrals, the true criminals are escaping our attention. It is a drain on manpower and hours both of which have reached critically low levels.

CBPOs are inexcusably understaffed and CBP policy is further straining the staffing with mandated referral programs that to our knowledge, in no significant way increase our interceptions of violations of law. There is no comparison when looking at the percentages of interceptions that are a result of our application of talent and training versus those interceptions generated randomly. Some of us refer to it as 'winning the lottery'- meaning the possibility of actually encountering, significant violations with any of these mandatory referrals- is one in a million. There is no data that shows that interceptions generated randomly by a computer results in any greater number of apprehensions than those interceptions based on officers' training and experience.

Infrastructure Issues

Since before 9/11, the need for a manned exit point for the Cargo Inspection facility has been highlighted by numerous port runner incidents. Today, commercial trucks travel in Blaine through three gates at primary processing. Trucks sent to secondary drive out of visual contact of the primary inspector and easily drive by secondary to the exit lane. Without a manned egress booth to check to make sure the truck has been cleared to leave the port, the system depends on the good faith of the trucker to go through secondary inspection and not run the gate. The

Automated Commercial Environment (ACE) model stipulates a manned egress point, but that would require building an egress booth and staffing it. This has not happened yet at Blaine. For this reason, there is no way to know how many commercial trucks have run the port in Blaine in the past 12 months.

At Blaine there is no way to stop fleeing vehicles. There are no employable spike strips, barriers, or other devices to stop fleeing vehicles. Our only recourse is to call Border Patrol, who frequently are unable to locate vehicles because of the attendant time delay.

At Blaine, there is no pursuit policy. CBP policy forbids us from pursuing people off of port property, even when the chase begins at the port. And even though we have the statutory authority to pursue and stop all who enter the country, our agency will not let us leave port property, even on foot. If this policy had been followed in Port Angeles, Ahmed Ressam would have escaped.

Staffing Issues

One of the most significant issues at Blaine is continuing staffing shortages. According to the GAO, “**as of June 2003, CBP has not increased staffing levels [at the POEs]**” (see GAO-05-663 page 19). A large number of my members have indicated to me that they are looking to leave their CBPO jobs here at Blaine and the large number of CBPO vacancies in Chapter 164 are not being filled.

In addition, the ratio of supervisors to staff has increased dramatically at Blaine aggravating the vacancy situation. Prior to 9/11, the goal was one supervisor to every 15 inspectors, today at Blaine, there is one supervisor for every three CBPOs. This ratio puts increasing scheduling pressure on rank and file frontline officers further demoralizing the workforce.

There are also continuing efforts to limit overtime at the ports of entry in Washington State at the expense of officer safety. In the past, two inspectors were assigned to inspect small boats and planes in Bellingham and Oroville at all times. Now only one inspector is on duty at night. Having no back up jeopardizes officer safety as well as homeland security.

It has long been proven that detection canines are an invaluable part of the land border security system. Detection canines are trained to detect explosives, drugs, concealed humans and currency. In the past, canine teams have been deployed during every shift at Blaine POE which necessitated overtime assignment for some canine teams. Since July 2005, over one year now, overtime has been eliminated for canine team duties. Dog teams work regular time only. Canine handlers do fill in for overtime duty but without their dogs. At a 24 hour port like Blaine that means that there are some shifts and sometimes whole days when there are no drug or bomb dog teams working.

CBPOs at Blaine believe that both bomb and drug canine detection teams are integral to securing our border. CBPOs nationwide and NTEU strongly support H.R. 4285 introduced by Representative Michael Rogers (AL), a member of the House Homeland Security Committee, to

increase by not less than 25 percent the number of trained canine detection teams deployed at and between the POEs.

One Face at the Border Initiative

Another source of concern for the CBPOs at Blaine is the institution of the One Face at the Border (OFAB) initiative that was designed to eliminate the pre-9/11 separation of immigration, customs, and agriculture functions at US land, sea and air ports of entry. In practice, the OFAB initiative has resulted in diluting customs, immigration and agriculture inspection specialization and the quality of passenger and cargo inspections. Under OFAB, former INS officers that are experts in identifying counterfeit foreign visas are now at seaports reviewing bills of lading from foreign container ships, while expert seaport Customs inspectors are now reviewing passports at airports. The processes, procedures and skills are very different at land, sea and air ports, as are the training and skill sets needed for passenger processing and cargo inspection.

An example of misapplication by CBP management at Blaine of the One Face at the Border initiative occurred on Sunday, July 9, 2006 when an unarmed CBP Agricultural Specialist was ordered to inspect arriving passengers on the regularly scheduled evening Amtrak train. The Agricultural Specialist assigned to this duty had not been trained in the CBP use of force policy or armed and dangerous response or the provisions of the land border inspectional safety policy.

Blaine CBPOs have on a number of occasions encountered felony fugitives, narcotics violators, and passengers on the Amtrak passenger trains who have bypassed the pre-clearance inspection in Vancouver. In June 2006, six illegal aliens were found on the Amtrak train who had boarded in Vancouver without inspection.

It is apparent that CBP sees its One Face at the Border initiative as a means to “increase management flexibility” without increasing staffing levels. It is instructive here to note that the former U.S. Customs Service’s last internal review of staffing for Fiscal Years 2000-2002 dated February 25, 2000, known as the Resource Allocation Model or R.A.M., shows that the Customs Service needed over 14,776 new hires just to fulfill its basic mission--and that was before September 11. Since then the Department of Homeland Security was created and the U.S. Customs Service was merged with the Immigration and Naturalization Service and parts of the Agriculture Plant Health Inspection Service to create Customs and Border Protection. CBP has two overarching and sometimes conflicting goals: increasing security while facilitating trade and travel.

Congress, in the House-passed Immigration and Border Security bill, HR 4437, the focus of this hearing, in section 105, requires the Secretary of Homeland Security to submit a report to Congress “describing the tangible and quantifiable benefits of the One Face at the Border Initiative...outlining the steps taken by the Department to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions...” It is NTEU’s belief that without adequate training and preservation of inspection specialization skills, the OFAB initiative is destined to fail to meet its objective.

Law Enforcement Status

The most significant source of consternation for CBPOs, is the lack of law enforcement officer status for CBP officers. Within the CBP there are two classes of federal employees, those with law enforcement officer status and its benefits and those without. Unfortunately, Customs Inspectors, Canine Enforcement Officers and INS Officers fall into the latter class and are therefore being denied the benefits given to other federal employees in the CBP who they work with at 317 ports-of-entry across the country including every international airport.

NTEU Chapter 164 members appreciate that the Homeland Security Committee recognized this inequitable treatment of CBPOs and did include in Section 406 of H.R. 5814, the Department of Homeland Security Authorization bill, LEO status to armed enforcement personnel at CBP from its creation on March 2003 forward, but for CBPOs like me who have over twenty years at our legacy agencies, this provision has limited effect.

The remedy for me, and many CBPOs transferred from legacy agencies, exists in another important piece of legislation involving the definition of law enforcement officer, H.R. 1002, Law Enforcement Officers Equity Act of 2005. NTEU strongly supports this bipartisan legislation introduced by Representatives Bob Filner (CA) and John McHugh (NY) and has 151 cosponsor to date including Homeland Security Committee Chairman Peter King (NY) and full Committee and Subcommittee Ranking Members Bennie Thompson (MS) and Kendrick Meek (FL). This legislation would include legacy customs and immigration enforcement officers along with those with a limited number of others with similar duties in other federal agencies as law enforcement officers for the purpose of 20-year retirement and allow our prior service to count toward this benefit.

Not many people recognize the sacrifices that CBPOs and Canine Enforcement Officers make for the CBP. Their lives are controlled by their jobs. They rarely work regular 9-5 schedules and they have little control over the schedules they do work in any given two-week period. Staffing levels are not adequate to meet the needs of most ports, so Inspectors are frequently asked to work on their days off or to work beyond their regular shifts. The constant strain of performing dangerous, life-threatening work on an irregular and unpredictable schedule has a profound impact on the health and personal lives of many CBPOs. They must maintain control and authority, sometimes for 16 hours a day, knowing that a dangerous situation could arise at any moment.

On January 24, 2006, two alleged felons wanted in California, were chased by Washington State troopers and local county officials, into the Port of Blaine. Two CBPOs pursued the suspect, shot and wounded one, and both were captured. On February 28, 2006, another deadly shooting at Brownsville, Texas occurred at a U.S. border crossing, the third in a little more than a month, when CBPOs were forced to open fire on the driver of a stolen vehicle who was attempting to flee across the border. At least two CBPOs were involved as the suspect turned the vehicle toward them and tried to run them down in an effort to escape. The third recent CBP officer-involved shooting occurred at the southwest border in Douglas, Arizona. It is clear that CBPOs are performing law enforcement officer duties without law enforcement office status and recognition.

Conclusion

Each year, with trade and travel increasing at astounding rates, CBP personnel have been asked to do more work with fewer personnel, training and resources. The more than 15,000 CBP employees represented by the NTEU are capable and committed to the varied missions of DHS from border control to the facilitation of trade into and out of the United States. We are proud of our part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade. We are deserving of more resources and technology to perform our jobs better and more efficiently.

The American public expects its borders and ports to be properly defended. Congress must show the public that it is serious about protecting the homeland by fully funding the staffing needs of the CBPOs at our 317 POEs. I thank you on behalf of all the members of NTEU Chapter 164 for visiting the Port of Blaine and talking to the CBPOs, canine officers, and trade entry and import specialists here to fully comprehend the jobs we do and what our work lives are like.

Again, I would like to thank the committee for the opportunity to be here today on behalf of the members of NTEU Chapter 164 to discuss these extremely important border security issues.